

## National Transportation Safety Board

## § 845.2

provided by the owner or operator of such vehicle, rolling stock, or track, and shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accident, consistent with the needs of the investigation and with the cooperation of such owner or operator. The employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to the investigation of such accident. Each inspection shall be commenced and completed promptly and the results of such inspection, examination, or test made available to the parties.

[47 FR 49408, Nov. 1, 1982]

### §840.6 Priority of Board investigations.

Any investigation of an accident conducted by the Safety Board shall have priority over all other investigations of such accident conducted by other Federal agencies. The Safety Board shall provide for the appropriate participation by other Federal agencies in any such investigation, except that such agencies may not participate in the Safety Board's determination of the probable cause of the accident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law or to obtain information directly from parties involved in, and witnesses to, the transportation accident. The Safety Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner.

[47 FR 49408, Nov. 1, 1982]

## PART 845—RULES OF PRACTICE IN TRANSPORTATION; ACCIDENT/INCIDENT HEARINGS AND REPORTS

Sec.

845.1 Applicability.

845.2 Nature of hearing.

845.3 Sessions open to the public.

### Subpart A—Initial Procedure

845.10 Determination to hold hearing.

845.11 Board of inquiry.

845.12 Notice of hearing.

845.13 Designation of parties.

### Subpart B—Conduct of Hearing

845.20 Powers of chairman of board of inquiry.

845.21 Hearing officer.

845.22 Technical panel.

845.23 Prehearing conference.

845.24 Right of representation.

845.25 Examination of witnesses.

845.26 Evidence.

845.27 Proposed findings.

845.28 Stenographic transcript.

845.29 Payment of witnesses.

### Subpart C—Board Reports

845.40 Accident report.

845.41 Petitions for reconsideration or modification.

### Subpart D—Public Record

845.50 Public docket.

845.51 Investigation to remain open.

AUTHORITY: Title VII, Federal Aviation Act of 1958, as amended (49 U.S.C. 1441 *et seq.*); and the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 *et seq.*).

SOURCE: 44 FR 34419, June 14, 1979, unless otherwise noted.

### §845.1 Applicability.

Unless otherwise specifically ordered by the National Transportation Safety Board (Board), the provisions of this part shall govern all transportation accident investigation hearings conducted under the authority of section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(b)) and accident reports issued by the Board.

### §845.2 Nature of hearing.

Transportation accident hearings are convened to assist the Board in determining cause or probable cause of an accident, in reporting the facts, conditions, and circumstances of the accident, and in ascertaining measures which will tend to prevent accidents and promote transportation safety. Such hearings are factfinding proceedings with no formal issues and no adverse parties and are not subject to the

provisions of the Administrative Procedure Act (Pub. L. 89–554, 80 Stat. 384 (5 U.S.C. 554)).

[44 FR 34419, June 14, 1979; 44 FR 39181, July 5, 1979]

#### **§ 845.3 Sessions open to the public.**

(a) All hearings shall normally be open to the public (subject to the provision that any person present shall not be allowed at any time to interfere with the proper and orderly functioning of the board of inquiry).

(b) Sessions shall not be open to the public when evidence of a classified nature or which affects national security is to be received.

### **Subpart A—Initial Procedure**

#### **§ 845.10 Determination to hold hearing.**

The Board may order a public hearing as part of an accident investigation whenever such hearing is deemed necessary in the public interest: *Provided*, that if a quorum of the Board is not immediately available in the event of a catastrophic accident, the determination to hold a public hearing may be made by the Chairman of the Board.

#### **§ 845.11 Board of inquiry.**

The board of inquiry shall consist of a Member of the Board who shall be chairman of the board of inquiry, and such other employees as may be designated by the chairman of the board of inquiry. Assignment of a Member to serve as the chairman of each board of inquiry shall be determined by the Board. The board of inquiry shall examine witnesses and secure, in the form of a public record, all known facts pertaining to the accident or incident and surrounding circumstances and conditions from which cause or probable cause may be determined and recommendations for corrective action may be formulated.

[49 FR 32853, Aug. 17, 1984]

#### **§ 845.12 Notice of hearing.**

The chairman of the board of inquiry shall designate a time and place for the hearing which meets the needs of the Board. Notice to all known interested persons shall be given.

#### **§ 845.13 Designation of parties.**

(a) The chairman of the board of inquiry shall designate as parties to the hearing those persons, agencies, companies, and associations whose participation in the hearing is deemed necessary in the public interest and whose special knowledge will contribute to the development of pertinent evidence. Parties shall be represented by suitable qualified technical employees or members who do not occupy legal positions.

(b) No party shall be represented by any person who also represents claimants or insurers. Failure to comply with this provision shall result in loss of status as a party.

[44 FR 34419, June 14, 1979, as amended at 51 FR 7278, Mar. 3, 1986]

### **Subpart B—Conduct of Hearing**

#### **§ 845.20 Powers of chairman of board of inquiry.**

The chairman of the board of inquiry, or his designee, shall have the following powers:

- (a) To designate parties to the hearing and revoke such designations;
- (b) To open, continue, or adjourn the hearing;
- (c) To determine the admissibility of and to receive evidence and to regulate the course of the hearing;
- (d) To dispose of procedural requests or similar matters; and
- (e) To take any other action necessary or incident to the orderly conduct of the hearing.

[44 FR 34419, June 14, 1979; 44 FR 39181, July 5, 1979]

#### **§ 845.21 Hearing officer.**

The hearing officer, upon designation by the Chairman of the Board, shall have the following powers:

- (a) To give notice concerning the time and place of hearing;
- (b) To administer oaths and affirmations to witnesses; and
- (c) To issue subpoenas requiring the attendance and testimony of witnesses and production of documents.

#### **§ 845.22 Technical panel.**

The Director, Bureau of Accident Investigation, or the Director, Bureau of